

BEFORE THE ALASKA STATE COMMISSION FOR HUMAN RIGHTS

ALASKA STATE COMMISSION FOR)
HUMAN RIGHTS, PAULA M.)
HALEY, EXECUTIVE DIRECTOR,)
ex rel., HEATHER YODER,)

Complainant,)

v.)

ASCHR No. J-11-161

KARLENE MULLER d/b/a)
KARLENE'S ACUPUNCTURE)
& DAY SPA,)

Respondent.)

ACCUSATION

Paula M. Haley, Executive Director of the Alaska State Commission for
Human Rights, *ex rel.* Heather Yoder, hereby alleges the following against Respondent
Karlene Muller d/b/a Karlene's Acupuncture & Day Spa:

1. Respondent Karlene Muller is the sole proprietor of Karlene's Acupuncture
& Day Spa, a business that provides acupuncture, massage, and other spa services in
Soldotna, Alaska.

2. Heather Yoder was employed by Ms. Muller to work as a massage
therapist at Karlene's Acupuncture & Day Spa from July 2010 to June 2011.

3. Ms. Yoder worked as an "on call" employee for Ms. Muller, meaning that
Ms. Muller would schedule Ms. Yoder to give massages or other treatments to Ms.
Muller's clients when Ms. Muller wanted Ms. Yoder to work.

1 4. Ms. Yoder was paid only for the work she performed for Ms. Muller.

2 When she was not scheduled for work she was not paid for her time.

3
4 5. In December 2010, Ms. Yoder informed Ms. Muller that she was pregnant.

5 6. After informing Ms. Muller that she was pregnant, Ms. Yoder was
6 assigned fewer massages than she had been before she announced her pregnancy.

7
8 7. Ms. Muller advised Ms. Yoder that she was scheduling her for fewer hours
9 of work because Ms. Yoder was pregnant.

10 8. In June 2011, without consulting with Ms. Yoder, Ms. Muller reassigned
11 several massages that had been scheduled for Ms. Yoder to other massage therapists who
12 were not pregnant.

13
14 9. Ms. Muller informed Ms. Yoder that she personally would not like having
15 a massage by a pregnant woman and that she has "issues" with women being pregnant
16 and working in her office.

17
18 10. On or about June 20, 2011, Ms. Muller advised Ms. Yoder that she was
19 not being fired but that she would not schedule her for any more massages.

20
21 **FIRST CAUSE OF ACTION**
22 **PREGNANCY DISCRIMINATION**
23 **A VIOLATION OF AS 18.80.220(a)(1)**

24 11. Paragraphs 1-10 above are realleged and incorporated herein.

25 12. Ms. Yoder was employed as a massage therapist by Ms. Muller from July
26 2010 to June 2011. Ms. Yoder was qualified to perform her job during this time, both
27 before and during her pregnancy.

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14. Ms. Muller's refusal to schedule Ms. Yoder for work effectively terminated Ms. Yoder's employment.

PRAYER FOR RELIEF

1. That the Commission issue an order declaring that Respondent Karlene Muller, d/b/a Karlene's Acupuncture & Day Spa, violated AS 18.80.220(a)(1) by subjecting Ms. Yoder to discrimination and discharge based on pregnancy.

3. That the Commission order the owners, managers and supervisors of Karlene's Acupuncture & Day Spa to obtain training of at least two (2) hours on the provisions of the Alaska Human Rights Law that prohibit discrimination in employment, with a focus on the prohibition on discrimination because of pregnancy, and that such order specify that the trainer or trainers and training curricula be approved by the Executive Director prior to the training being conducted.

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1 personnel records all documents and entries relating to the facts and circumstances that led
2 to Ms. Yoder's filing of the above-captioned charge and any of the related events occurring
3 thereafter.
4

5 5. That the Commission order Respondent to refrain from penalizing Ms.
6 Yoder in any way in future considerations for employment and, if rehired, for transfers,
7 promotions, or upgrading because Ms. Yoder complained about discrimination or because
8 she filed a complaint with the Commission.
9

10 6. That the Commission order Respondent to refrain from advising or
11 informing any other employer or potential employer of Ms. Yoder of the facts or
12 circumstances involved in this case.
13

14 7. That the Commission order Respondent to pay back pay, including any lost
15 benefits or other remuneration, to Ms. Yoder, plus interest at the applicable legal rate,
16 the exact amount of which will be proven at hearing.
17

18 Dated this 30th day of December 2013 at Anchorage, Alaska.
19

20 ALASKA STATE COMMISSION
21 FOR HUMAN RIGHTS

22 *signature redacted*

23 By: _____

24 Laura Clauson Ferree
25 Human Rights Attorney
26 Alaska Bar No. 1305015
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